

**REMARKS**

As a preliminary matter, Applicant thanks the Examiner for withdrawing the Restriction and Election of Species Requirement made in the Office Action mailed on June 27, 2007.

In the Office Action mailed March 7, 2008, the Examiner requires election of "a specific gradient copolymer and monomeric residue." Office Action at 2. Applicant respectfully notes that while the Examiner requests election of a single monomeric residue, claim 1 is directed to a gradient copolymer comprising at least two different monomeric residues. Accordingly, election of a specific gradient copolymer requires election of at least two different monomeric residues. Therefore, Applicant has proceeded with the election of at least two different monomeric residues, as set forth below. In the event Applicant's understanding of the present election of species requirement is incorrect, Applicant respectfully requests clarification.

The election requirement is respectfully traversed for the reasons set forth below. However, to be fully responsive to the election requirement, Applicant provisionally elects, with traverse, a gradient copolymer comprising **ethyl acrylate** and **styrene** as the at least two different monomeric residues. Applicant submits that claims 1-17, 23-30, 57, 63, 66, and 70-91 read on the elected species.

Applicant respectfully traverses the election of species requirement on the basis that the Examiner has failed to show that a serious burden exists to examine all of the alleged species. M.P.E.P. § 803.02 lays out clear requirements for justifying an election

of species. An examiner must show that the search and examination of a claim would impose a **serious burden** on the Examiner because it embraces an unreasonable number of species. *Id.* (emphasis added). The Examiner has not provided any evidence of such a burden.

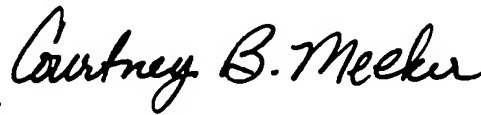
If the Examiner, however, chooses to maintain the election of species requirement, Applicant expects the Examiner, if the elected species are found allowable, to continue to examine the full scope of the subject matter to the extent necessary to determine the patentability thereof, as is the duty according to 35 U.S.C. § 121 and M.P.E.P. § 803.2.

Thus, in view of the foregoing remarks, Applicant respectfully requests reconsideration and withdrawal of the election requirement.

If there is any fee due in connection with the filing of this paper, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.



By: \_\_\_\_\_  
Courtney B. Meeker  
Reg. No. 56,821

Dated: March 20, 2008